

114TH CONGRESS  
1ST SESSION

# H. R. 2605

To amend title 38, United States Code, to improve the supervision of fiduciaries of veterans under the laws administered by the Secretary of Veterans Affairs.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 2, 2015

Mr. JOHNSON of Ohio introduced the following bill; which was referred to the Committee on Veterans' Affairs

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## A BILL

To amend title 38, United States Code, to improve the supervision of fiduciaries of veterans under the laws administered by the Secretary of Veterans Affairs.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Veterans Fiduciary  
5       Reform Act of 2015”.

6       **SEC. 2. IMPROVEMENT OF FIDUCIARIES FOR VETERANS.**

7       (a) APPOINTMENT AND SUPERVISION.—

8           (1) Section 5502 of title 38, United States  
9       Code, is amended to read as follows:

1     **“§ 5502. Appointment of fiduciaries**

2         “(a) APPOINTMENT.—(1) Where it appears to the  
3     Secretary that the interest of the beneficiary would be  
4     served thereby, payment of benefits under any law admin-  
5     istered by the Secretary may be made directly to the bene-  
6     ficiary or to a relative or some other fiduciary for the use  
7     and benefit of the beneficiary, regardless of any legal dis-  
8     ability on the part of the beneficiary.

9         “(2) When in the opinion of the Secretary, a tem-  
10   porary fiduciary is needed in order to protect the benefits  
11   provided to the beneficiary under any law administered by  
12   the Secretary while a determination of incompetency is  
13   being made or appealed or a fiduciary is appealing a deter-  
14   mination of misuse, the Secretary may appoint one or  
15   more temporary fiduciaries for a period not to exceed 120  
16   days. If a final decision has not been made within 120  
17   days, the Secretary may not continue the appointment of  
18   the fiduciary without obtaining a court order for appoint-  
19   ment of a guardian, conservator, or other fiduciary under  
20   the authority provided in section 5502(b) of this title.

21         “(b) APPEALS.—(1) If the Secretary determines a  
22   beneficiary to be mentally incompetent for purposes of ap-  
23   pointing a fiduciary under this chapter, the Secretary shall  
24   provide such beneficiary with a written statement detailing  
25   the reasons for such determination.

1       “(2) A beneficiary whom the Secretary has deter-  
2 mined to be mentally incompetent for purposes of appoint-  
3 ing a fiduciary under this chapter may appeal such deter-  
4 mination.

5       “(c) MODIFICATION.—(1) A beneficiary for whom the  
6 Secretary appoints a fiduciary under this chapter may, at  
7 any time, request the Secretary to—

8           “(A) remove the fiduciary so appointed; and  
9           “(B) have a new fiduciary appointed.

10      “(2) The Secretary shall comply with a request under  
11 paragraph (1) if the Secretary determines that the request  
12 is made in good faith and—

13           “(A) the fiduciary requested to be removed re-  
14 ceives a fee from the beneficiary and a suitable vol-  
15 unteer fiduciary is available to assist the beneficiary;  
16 or

17           “(B) the beneficiary provides credible informa-  
18 tion that the fiduciary requested to be removed is—

19               “(i) not acting in the interest of the bene-  
20 ficiary; or

21               “(ii) unable to effectively serve the bene-  
22 ficiary because of an irreconcilable personality  
23 conflict or disagreement.

24      “(3) The Secretary shall ensure that any removal or  
25 new appointment of a fiduciary under paragraph (1) does

1 not delay or interrupt the beneficiary's receipt of benefits  
2 administered by the Secretary.

3       “(d) INDEPENDENCE.—A fiduciary appointed by the  
4 Secretary shall operate independently of the Department  
5 to determine the actions that are in the interest of the  
6 beneficiary.

7       “(e) PREDESIGNATION.—A veteran may predesignate  
8 a fiduciary by—

9           “(1) submitting written notice to the Secretary  
10 of the predesignated fiduciary; or  
11           “(2) submitting a form provided by the Sec-  
12 retary for such purpose.

13       “(f) APPOINTMENT OF NON-PREDESIGNATED FIDU-  
14 CIARY.—If a beneficiary designates an individual to serve  
15 as a fiduciary under subsection (e) and the Secretary ap-  
16 points an individual not so designated as the fiduciary for  
17 such beneficiary, the Secretary shall notify such bene-  
18 ficiary of—

19           “(1) the reason why such designated individual  
20 was not appointed; and

21           “(2) the ability of the beneficiary to modify the  
22 appointed fiduciary under subsection (c).

23       “(g) PRIORITY OF APPOINTMENT.—In appointing a  
24 fiduciary under this chapter, if a beneficiary does not des-

1 nominate a fiduciary pursuant to subsection (e), to the extent  
2 possible the Secretary shall appoint a person who is—

3                 “(1) a relative of the beneficiary;  
4                 “(2) appointed as guardian of the beneficiary  
5                 by a court of competent jurisdiction; or  
6                 “(3) authorized to act on behalf of the bene-  
7                 ficiary under a durable power of attorney.”.

8                 (2) CLERICAL AMENDMENT.—The table of sec-  
9                 tions at the beginning of chapter 55 of title 38,  
10               United States Code, is amended by striking the item  
11               relating to section 5502 and inserting the following:

“5502. Appointment of fiduciaries.”.

12                 (b) SUPERVISION.—

13                 (1) IN GENERAL.—Chapter 55 of title 38,  
14               United States Code, is amended by inserting after  
15               section 5502, as amended by subsection (a)(1), the  
16               following new section:

17                 **“§ 5502A. Supervision of fiduciaries”**

18                 “(a) COMMISSION.—(1)(A) In a case in which the  
19               Secretary determines that a commission is necessary in  
20               order to obtain the services of a fiduciary in the best inter-  
21               ests of a beneficiary, the Secretary may authorize a fidu-  
22               ciary appointed by the Secretary to obtain from the  
23               monthly benefits provided to the beneficiary a reasonable  
24               commission for fiduciary services rendered, but the com-

1 mission for any month may not exceed the lesser of the  
2 following amounts:

3           “(i) The amount that equals three percent of  
4           the monthly monetary benefits under laws adminis-  
5           tered by the Secretary paid on behalf of the bene-  
6           ficiary to the fiduciary.

7           “(ii) \$35.

8           “(B) A commission paid under this paragraph may  
9           not be derived from any award to a beneficiary regarding  
10          back pay or retroactive benefits payments.

11          “(C) A commission may not be authorized for a fidu-  
12         ciary who receives any other form of remuneration or pay-  
13         ment in connection with rendering fiduciary services for  
14         benefits under this title on behalf of the beneficiary.

15          “(D) In accordance with section 6106 of this title,  
16          a commission may not be paid to a fiduciary if the Sec-  
17         retary determines that the fiduciary misused any benefit  
18         payments of a beneficiary.

19          “(E) If the Secretary determines that the fiduciary  
20          has misused any benefit or payments of a beneficiary, the  
21          Secretary may revoke the fiduciary status of the fiduciary.

22          “(2) Where, in the opinion of the Secretary, any fidu-  
23         ciary receiving funds on behalf of a Department bene-  
24         ficiary is acting in such a number of cases as to make  
25         it impracticable to conserve properly the estates or to su-

1 pervise the persons of the beneficiaries, the Secretary may  
2 refuse to make future payments in such cases as the Sec-  
3 retary may deem proper.

4        "(b) COURT.—Whenever it appears that any fidu-  
5 ciary, in the opinion of the Secretary, is not properly exe-  
6 cutting or has not properly executed the duties of the trust  
7 of such fiduciary or has collected or paid, or is attempting  
8 to collect or pay, fees, commissions, or allowances that are  
9 inequitable or in excess of those allowed by law for the  
10 duties performed or expenses incurred, or has failed to  
11 make such payments as may be necessary for the benefit  
12 of the ward or the dependents of the ward, then the Sec-  
13 retary may appear, by the Secretary's authorized attorney,  
14 in the court which has appointed such fiduciary, or in any  
15 court having original, concurrent, or appellate jurisdiction  
16 over said cause, and make proper presentation of such  
17 matters. The Secretary, in the Secretary's discretion, may  
18 suspend payments to any such fiduciary who shall neglect  
19 or refuse, after reasonable notice, to render an account  
20 to the Secretary from time to time showing the application  
21 of such payments for the benefit of such incompetent or  
22 minor beneficiary, or who shall neglect or refuse to admin-  
23 ister the estate according to law. The Secretary may re-  
24 quire the fiduciary, as part of such account, to disclose  
25 any additional financial information concerning the bene-

1 fiduciary (except for information that is not available to the  
2 fiduciary). The Secretary may appear or intervene by the  
3 Secretary's duly authorized attorney in any court as an  
4 interested party in any litigation instituted by the Sec-  
5 retary or otherwise, directly affecting money paid to such  
6 fiduciary under this section.

7       “(c) PAYMENT OF CERTAIN EXPENSES.—Authority  
8 is hereby granted for the payment of any court or other  
9 expenses incident to any investigation or court proceeding  
10 for the appointment of any fiduciary or other person for  
11 the purpose of payment of benefits payable under laws ad-  
12 ministered by the Secretary or the removal of such fidu-  
13 ciary and appointment of another, and of expenses in con-  
14 nection with the administration of such benefits by such  
15 fiduciaries, or in connection with any other court pro-  
16 ceeding hereby authorized, when such payment is author-  
17 ized by the Secretary.

18       “(d) TEMPORARY PAYMENT OF BENEFITS.—All or  
19 any part of any benefits the payment of which is sus-  
20 pended or withheld under this section may, in the discre-  
21 tion of the Secretary, be paid temporarily to the person  
22 having custody and control of the incompetent or minor  
23 beneficiary, to be used solely for the benefit of such bene-  
24 ficiary, or, in the case of an incompetent veteran, may be  
25 apportioned to the dependent or dependents, if any, of

1 such veteran. Any part not so paid and any funds of a  
2 mentally incompetent or insane veteran not paid to the  
3 chief officer of the institution in which such veteran is a  
4 patient nor apportioned to the veteran's dependent or de-  
5 pendents may be ordered held in the Treasury to the credit  
6 of such beneficiary. All funds so held shall be disbursed  
7 under the order and in the discretion of the Secretary for  
8 the benefit of such beneficiary or the beneficiary's depend-  
9 ents. Any balance remaining in such fund to the credit  
10 of any beneficiary may be paid to the beneficiary if the  
11 beneficiary recovers and is found competent, or if a minor,  
12 attains majority, or otherwise to the beneficiary's fidu-  
13 ciary, or, in the event of the beneficiary's death, to the  
14 beneficiary's personal representative, except as otherwise  
15 provided by law; however, payment will not be made to  
16 the beneficiary's personal representative if, under the law  
17 of the beneficiary's last legal residence, the beneficiary's  
18 estate would escheat to the State. In the event of the death  
19 of a mentally incompetent or insane veteran, all gratuitous  
20 benefits under laws administered by the Secretary depos-  
21 ited before or after August 7, 1959, in the personal funds  
22 of patient's trust fund on account of such veteran shall  
23 not be paid to the personal representative of such veteran,  
24 but shall be paid to the following persons living at the  
25 time of settlement, and in the order named: The surviving

1 spouse, the children (without regard to age or marital sta-  
2 tus) in equal parts, and the dependent parents of such  
3 veteran, in equal parts. If any balance remains, such bal-  
4 ance shall be deposited to the credit of the applicable cur-  
5 rent appropriation; except that there may be paid only so  
6 much of such balance as may be necessary to reimburse  
7 a person (other than a political subdivision of the United  
8 States) who bore the expenses of last sickness or burial  
9 of the veteran for such expenses. No payment shall be  
10 made under the two preceding sentences of this subsection  
11 unless claim therefor is filed with the Secretary within five  
12 years after the death of the veteran, except that, if any  
13 person so entitled under said two sentences is under legal  
14 disability at the time of death of the veteran, such five-  
15 year period of limitation shall run from the termination  
16 or removal of the legal disability.

17       “(e) ESCHEATMENT.—Any funds in the hands of a  
18 fiduciary appointed by a State court or the Secretary de-  
19 rived from benefits payable under laws administered by  
20 the Secretary, which under the law of the State wherein  
21 the beneficiary had last legal residence would escheat to  
22 the State, shall escheat to the United States and shall be  
23 returned by such fiduciary, or by the personal representa-  
24 tive of the deceased beneficiary, less legal expenses of any  
25 administration necessary to determine that an escheat is

1 in order, to the Department, and shall be deposited to the  
2 credit of the applicable revolving fund, trust fund, or ap-  
3 propriation.

4       “(f) ASSISTANCE.—The Secretary shall provide to a  
5 fiduciary appointed under section 5502 of this title mate-  
6 rials and tools to assist the fiduciary in carrying out the  
7 responsibilities of the fiduciary under this chapter, includ-  
8 ing—

9           “(1) handbooks, brochures, or other written  
10 material that explain the responsibilities of a fidu-  
11 ciary under this chapter;

12           “(2) tools located on an Internet website, in-  
13 cluding forms to submit to the Secretary required  
14 information; and

15           “(3) assistance provided by telephone.”.

16       (2) CLERICAL AMENDMENT.—The table of sec-  
17 tions at the beginning of chapter 55 of title 38,  
18 United States Code, is amended by inserting after  
19 the item relating to section 5502 the following new  
20 item:

“5502A. Supervision of fiduciaries.”.

21       (c) DEFINITION OF FIDUCIARY.—Section 5506 of  
22 title 38, United States Code, is amended—

23           (1) by striking “For purposes” and inserting  
24           “(a) For purposes”; and

1                   (2) by adding at the end the following new sub-  
2                   section:

3                 “(b)(1) For purposes of subsection (a), the term ‘per-  
4                   son’ includes any—

5                 “(A) State or local government agency whose  
6                   mission is to carry out income maintenance, social  
7                   service, or health care-related activities;

8                 “(B) any State or local government agency with  
9                   fiduciary responsibilities; or

10                “(C) any nonprofit social service agency that  
11                   the Secretary determines—

12                “(i) regularly provides services as a fidu-  
13                   ciary concurrently to five or more individuals;  
14                   and

15                “(ii) is not a creditor of any such indi-  
16                   vidual.

17                “(2) The Secretary shall maintain a list of State or  
18                   local agencies and nonprofit social service agencies under  
19                   paragraph (1) that are qualified to act as a fiduciary  
20                   under this chapter. In maintaining such list, the Secretary  
21                   may consult the lists maintained under section 807(h) of  
22                   the Social Security Act (42 U.S.C. 1007(h)).”.

23                (d) **QUALIFICATIONS.**—Section 5507 of title 38,  
24                   United States Code, is amended to read as follows:

1   **“§ 5507. Inquiry, investigations, and qualification of**  
2                   **fiduciaries**

3       “(a) INVESTIGATION.—Any certification of a person  
4   for payment of benefits of a beneficiary to that person as  
5   such beneficiary’s fiduciary under section 5502 of this title  
6   shall be made on the basis of—

7               “(1) an inquiry or investigation by the Sec-  
8   retary of the fitness of that person to serve as fidu-  
9   ciary for that beneficiary to be conducted in advance  
10   of such certification and in accordance with sub-  
11   section (b);

12             “(2) adequate evidence that certification of that  
13   person as fiduciary for that beneficiary is in the in-  
14   terest of such beneficiary (as determined by the Sec-  
15   retary under regulations);

16             “(3) adequate evidence that the person to serve  
17   as fiduciary protects the private information of a  
18   beneficiary in accordance with subsection (d)(1); and

19             “(4) the furnishing of any bond that may be re-  
20   quired by the Secretary in accordance with sub-  
21   section (f).

22           “(b) ELEMENTS OF INVESTIGATION.—(1) In con-  
23   ducting an inquiry or investigation of a proposed fiduciary  
24   under subsection (a)(1), the Secretary shall conduct—

1           “(A) a face-to-face interview with the proposed  
2       fiduciary by not later than 30 days after the date on  
3       which such inquiry or investigation begins; and

4           “(B) a background check of the proposed fidu-  
5       ciary to—

6           “(i) in accordance with paragraph (2), de-  
7       termine whether the proposed fiduciary has  
8       been convicted of a crime; and

9           “(ii) determine whether the proposed fidu-  
10      ciary will serve the best interest of the bene-  
11      ficiary, including by conducting a credit check  
12      of the proposed fiduciary and checking the  
13      records under paragraph (5).

14          “(2) The Secretary shall request information con-  
15      cerning whether that person has been convicted of any of-  
16      fense under Federal or State law. If that person has been  
17      convicted of such an offense, the Secretary may certify the  
18      person as a fiduciary only if the Secretary finds that the  
19      person is an appropriate person to act as fiduciary for the  
20      beneficiary concerned under the circumstances.

21          “(3) The Secretary shall conduct the background  
22      check described in paragraph (1)(B)—

23           “(A) each time a person is proposed to be a fi-  
24       duciary, regardless of whether the person is serving  
25       or has served as a fiduciary; and

1               “(B) at no expense to the beneficiary.

2               “(4) Each proposed fiduciary shall disclose to the  
3 Secretary the number of beneficiaries that the fiduciary  
4 acts on behalf of.

5               “(5) The Secretary shall maintain records of any per-  
6 son who has—

7               “(A) previously served as a fiduciary; and

8               “(B) had such fiduciary status revoked by the  
9 Secretary.

10              “(6)(A) If a fiduciary appointed by the Secretary is  
11 convicted of a crime described in subparagraph (B), the  
12 Secretary shall notify the beneficiary of such conviction  
13 by not later than 14 days after the date on which the Sec-  
14 retary learns of such conviction.

15              “(B) A crime described in this subparagraph is a  
16 crime—

17              “(i) for which the fiduciary is convicted while  
18 serving as a fiduciary for any person;

19              “(ii) that is not included in a report submitted  
20 by the fiduciary under section 5509(a) of this title;  
21 and

22              “(iii) that the Secretary determines could affect  
23 the ability of the fiduciary to act on behalf of the  
24 beneficiary.

1       “(c) INVESTIGATION OF CERTAIN PERSONS.—(1) In  
2 the case of a proposed fiduciary described in paragraph  
3 (2), the Secretary, in conducting an inquiry or investiga-  
4 tion under subsection (a)(1), may carry out such inquiry  
5 or investigation on an expedited basis that may include  
6 giving priority to conducting such inquiry or investigation.  
7 Any such inquiry or investigation carried out on such an  
8 expedited basis shall be carried out under regulations pre-  
9 scribed for purposes of this section.

10       “(2) Paragraph (1) applies with respect to a proposed  
11 fiduciary who is—  
12           “(A) the parent (natural, adopted, or step-  
13 parent) of a beneficiary who is a minor;  
14           “(B) the spouse or parent of an incompetent  
15 beneficiary;  
16           “(C) a person who has been appointed a fidu-  
17 ciary of the beneficiary by a court of competent ju-  
18 risdiction;  
19           “(D) being appointed to manage an estate  
20 where the annual amount of veterans benefits to be  
21 managed by the proposed fiduciary does not exceed  
22 \$3,600, as adjusted pursuant to section 5312 of this  
23 title; or

1               “(E) a person who is authorized to act on be-  
2 half of the beneficiary under a durable power of at-  
3 torney.

4               “(d) PROTECTION OF PRIVATE INFORMATION.—(1)

5 A fiduciary shall take all reasonable precautions to—

6               “(A) protect the private information of a bene-  
7 ficiary, including personally identifiable information;  
8 and

9               “(B) securely conducts financial transactions.

10              “(2) A fiduciary shall notify the Secretary of any ac-  
11 tion of the fiduciary that compromises or potentially com-  
12 promises the private information of a beneficiary.

13              “(e) POTENTIAL MISUSE OF FUNDS.—(1) If the Sec-  
14 retary has reason to believe that a fiduciary may be mis-  
15 using all or part of the benefit of a beneficiary, the Sec-  
16 retary shall—

17              “(A) conduct a thorough investigation to deter-  
18 mine the veracity of such belief; and

19              “(B) if such veracity is established, transmit to  
20 the officials described in paragraph (2) a report of  
21 such investigation.

22              “(2) The officials described in this paragraph are the  
23 following:

24              “(A) The Attorney General.

1           “(B) Each head of a Federal department or  
2       agency that pays to a fiduciary or other person ben-  
3       efits under any law administered by such depart-  
4       ment of agency for the use and benefit of a minor,  
5       incompetent, or other beneficiary.

6           “(f) BOND.—In determining whether a proposed fi-  
7       duciary is required to furnish a bond under subsection  
8       (a)(4), the Secretary shall consider—

9           “(1) the existence of any familial or other per-  
10     sonal relationship between the proposed fiduciary  
11     and the beneficiary; and

12           “(2) the care the proposed fiduciary has taken  
13      to protect the interests of the beneficiary.

14           “(g) LIST OF FIDUCIARIES.—Each regional office of  
15      the Veterans Benefits Administration shall maintain a list  
16      of the following:

17           “(1) The name and contact information of each  
18      fiduciary, including address, telephone number, and  
19      email address.

20           “(2) With respect to each fiduciary described in  
21      paragraph (1)—

22           “(A) the date of the most recent back-  
23      ground check and credit check performed by the  
24      Secretary under this section;

1               “(B) the date that any bond was paid  
2               under this section;

3               “(C) the name, address, and telephone  
4               number of each beneficiary the fiduciary acts on  
5               behalf of; and

6               “(D) the amount that the fiduciary con-  
7               trols with respect to each beneficiary described  
8               in subparagraph (C).”.

9               (e) ANNUAL RECEIPT OF PAYMENTS.—

10              (1) IN GENERAL.—Section 5509 of title 38,  
11              United States Code, is amended—

12              (A) in subsection (a)—

13              (i) by striking “may require a fidu-  
14              ciary to file a” and inserting “shall require  
15              a fiduciary to file an annual”; and

16              (ii) by adding at the end the following  
17              new sentence: “The Secretary shall trans-  
18              mit such annual report or accounting to  
19              the beneficiary and any legal guardian of  
20              such beneficiary.”;

21              (B) by adding at the end the following new  
22              subsections:

23              “(c) MATTERS INCLUDED.—Except as provided by  
24              subsection (f), an annual report or accounting under sub-  
25              section (a) shall include the following:

1           “(1) For each beneficiary that a fiduciary acts  
2       on behalf of—

3               “(A) the amount of the benefits of the ben-  
4       eficiary provided under any law administered by  
5       the Secretary accrued during the year, the  
6       amount spent, and the amount remaining; and

7               “(B) if the fiduciary serves the beneficiary  
8       with respect to benefits not administered by the  
9       Secretary, an accounting of all sources of bene-  
10      fits or other income the fiduciary oversees for  
11      the beneficiary.

12           “(2) A list of events that occurred during the  
13      year covered by the report that could affect the abil-  
14      ity of the fiduciary to act on behalf of the bene-  
15      ficiary, including—

16               “(A) the fiduciary being convicted of any  
17      crime;

18               “(B) the fiduciary declaring bankruptcy;  
19      and

20               “(C) any judgments entered against the fi-  
21      duciary.

22           “(d) RANDOM AUDITS.—The Secretary shall annu-  
23      ally conduct random audits of fiduciaries who receive a  
24      commission pursuant to subsection 5502A(a)(1) of this  
25      title.

1        “(e) STATUS OF FIDUCIARY.—If a fiduciary includes  
2 in the annual report events described in subsection (c)(2),  
3 the Secretary may take appropriate action to adjust the  
4 status of the fiduciary as the Secretary determines appro-  
5 priate, including by revoking the fiduciary status of the  
6 fiduciary.

7        “(f) CAREGIVERS AND CERTAIN OTHER FIDU-  
8 CIARIES.—(1)(A) In carrying out this section, the Sec-  
9 retary shall ensure that a caregiver fiduciary is required  
10 only to file an annual report or accounting under sub-  
11 section (a) with respect to the amount of the benefits of  
12 the beneficiary provided under any law administered by  
13 the Secretary—

14            “(i) spent on—

15              “(I) food and housing for the beneficiary;  
16              and

17              “(II) clothing, health-related expenses,  
18              recreation, and other personal items for the  
19              beneficiary; and

20            “(ii) saved for the beneficiary.

21            “(B) The Secretary shall coordinate with the Under  
22 Secretary for Benefits and the Under Secretary for Health  
23 to—

1           “(i) minimize the frequency with which employ-  
2        ees of the Department visit the home of a caregiver  
3        fiduciary and beneficiary; and

4           “(ii) limit the extent of supervision by such  
5        Under Secretaries with respect to such a fiduciary  
6        and beneficiary.

7        “(C) In this paragraph, the term ‘caregiver fiduciary’  
8        means a fiduciary who—

9           “(i) in addition to acting as a fiduciary for a  
10      beneficiary, is approved by the Secretary to be a  
11      provider of personal care services for the beneficiary  
12      under paragraph (3)(A)(i) of section 1720G(a) of  
13      this title;

14           “(ii) in carrying out such care services to such  
15      beneficiary, has undergone not less than four home  
16      visits under paragraph (9)(A) of such section; and

17           “(iii) has not been required by the Secretary to  
18      take corrective action pursuant to paragraph (9)(C)  
19      of such section.

20        “(2) In carrying out this section, the Secretary may  
21      adjust the matters required under an annual report or ac-  
22      counting under subsection (a) with respect to a fiduciary  
23      whom the Secretary determines to have effectively pro-  
24      tected the interests of the beneficiary over a sustained pe-  
25      riod.”; and

(C) by striking the section heading and inserting the following: “**Annual reports and accountings of fiduciaries**”.

“5509. Annual reports and accountings of fiduciaries.”.

9               (f) REPAYMENT OF MISUSED BENEFITS.—Section  
10 6107(a)(2)(C) of title 38, United States Code, is amended  
11 by inserting before the period the following: “, including  
12 by the Secretary not acting in accordance with section  
13 5507 of this title”.

(g) ANNUAL REPORTS.—Section 5510 of title 38, United States Code, is amended by striking “The Secretary shall include in the Annual Benefits Report of the Veterans Benefits Administration or the Secretary’s Annual Performance and Accountability Report” and inserting “Not later than July 1 of each year, the Secretary shall submit to the Committees on Veterans’ Affairs of the House of Representatives and the Senate a separate report containing”.

23 (h) REPORT.—Not later than one year after the date  
24 of the enactment of this Act, the Secretary of Veterans  
25 Affairs shall submit to the Committee on Veterans' Affairs

1 of the Senate and the Committee on Veterans' Affairs of  
2 the House of Representatives a comprehensive report on  
3 the implementation of the amendments made by this Act,  
4 including—

5                 (1) detailed information on the establishment of  
6 new policies and procedures pursuant to such  
7 amendments and training provided on such policies  
8 and procedures; and

9                 (2) a discussion of whether the Secretary  
10 should provide fiduciaries with standardized financial  
11 software to simplify reporting requirements.

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